

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DENISE MCPEEK,

Plaintiff,

vs.

HARRAH'S IMPERIAL PALACE, CORP. et al.,

Defendants.

Case No. 2:13-cv-01371-JAD-PAL

ORDER

(Mtn for Bond - Dkt. #28)

This matter is before the court on Defendant Harrah's Imperial Palace Corporation's Demand for Deposit of Non-Resident Cost Bond to Plaintiff Denise McPeak (Dkt. #28) filed August 18, 2013, which the Clerk docketed as a Motion. No response was filed, and the time for filing one has now run. The court has considered the Demand. Defendant seeks an Order directing non-resident Plaintiff Denise McPeak to file a five hundred dollar bond with the Clerk of Court to secure costs and charges in this case pursuant to NRS 18.130.

NRS 18.130 provides that where a plaintiff resides out of state, security for the costs and charges which may be awarded against that plaintiff, by filing and serving a written demand on the plaintiff for those costs and charges within the time for filing an answer. Here, Plaintiff filed her Complaint (Dkt. #1) on July 26, 2012, in the United States District Court for the District of New Jersey. Defendant filed a Motion to Dismiss (Dkt. #7) on August 27, 2012. The court denied the Motion to Dismiss without prejudice and allowed Plaintiff to file an amended complaint. Plaintiff filed an Amended Complaint (Dkt. #16) on October 12, 2012. Defendant filed a Motion to Dismiss (Dkt. #17) on October 24, 2012, which the court denied without prejudice in an Order (Dkt. #22) entered June 18, 2013. Defendant re-filed the Motion to Dismiss (Dkt. #23) on July 1, 2013. The court denied the

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1 Motion to Dismiss as moot on August 2, 2013, and transferred this case to this district pursuant to 28
2 U.S.C. § 1631. *See* Order (Dkt. #25).

3 28 U.S.C. § 1631 provides that where an action is transferred to cure a lack of jurisdiction, the
4 action shall proceed “as if it had been filed in or noticed for the court to which it was transferred on the
5 date upon which it was actually filed in or noticed for the court from which it came. *Id.* Simply, put
6 Defendant’s answer was due no later than seventeen days after the Order denying the Motion to Dismiss
7 as moot—i.e., on or before August 19, 2013. *See* Fed. R. Civ. P. 12(a)(4)(A); Fed. R. Civ. P. 6(d).
8 Accordingly, the Demand for Bond was timely filed.

9 The Ninth Circuit recognizes that federal district courts have inherent power to require plaintiffs
10 to post security for costs. *Simulnet E. Associates v. Ramada Hotel Operating Co.*, 37 F.3d 573, 574
11 (9th Cir. 1994). A federal district court typically follows the forum state’s practice, especially where
12 the party is a non-resident. *See* Wright & Miller, 10 Fed. Prac. & Proc. Civ. § 2671 (3d ed. 2013).
13 Nevada permits the payment of security pursuant to NRS 18.130.

14 Having reviewed and considered the matter,

15 **IT IS ORDERED** that Defendant’s Motion for Bond (Dkt. #28) is GRANTED. Plaintiff shall
16 post a bond securing costs and fees in this matter with the Clerk of Court no later than **November 18,**
17 **2013.**

18 Dated this 16th day of October, 2013.

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22 PEGGY A. LEEN
23 UNITED STATES MAGISTRATE JUDGE
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